



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/804,614

03/19/2004

Michael P. Short

1205-00100

7859

7590  
Michael P. Short  
14034 SE 35th Loop  
Vancouver, WA 98683

12/18/2008

EXAMINER

ALVAREZ, RAQUEL

ART UNIT

PAPER NUMBER

3688

MAIL DATE

DELIVERY MODE

12/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/804,614	<b>Applicant(s)</b> SHORT ET AL.	
	<b>Examiner</b> Raquel Alvarez	<b>Art Unit</b> 3688	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 3/19/04.

2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-54 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-54 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This office action is in response to communication filed on 3/19/2004.
2. Claims 1-54 are presented for examination.

**Claim Rejections - 35 USC § 112**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The word "if" in the claims make the limitations optional. The limitations followed by the word "if" are not positively recited.

**Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-7, 12-19, 24-36, 38-48, 50-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Lambert et al. (20040073481 hereinafter Lambert).

With respect to claims 1-5, 12-17, 24-36, 38-47 Lambert teaches a CPU and a memory coupled top the CPU, wherein the memory medium stores program instructions which are executable by the server (See Figure 1). Determine if an identification should be distributed and distribute the identification if the identification should be distributed and storing the occurrence of distributing the identification(i.e. limited life span key 304 expires 10 minutes after it is issued); determine if an advertisement should be distributed and distribute the advertisement if the advertisement should be distributed and store an occurrence of distributing the advertisement (list of ads 308 and step 414); determine if media should be distributed if media should be distributed and distribute the media, after determining the media to distribute wherein the computer system is operable to distribute the media and store an occurrence of distributing the media (i.e. time and date of where media is displayed or played)(paragraphs 0026 0036 0049 0052 and 0056).

With respect to claims 6, 18, Lambert further teaches indicating the type of media (i.e. play media or display media)(paragraphs 0026 0036 0052 and 0056).

With respect to claims 7, 19 Lambert further teaches that one of the attributes indicates the length of the media (paragraphs 0043 and 0044).

With respect to claims 48, 50-54, Lambert further teaches an information distribution system comprising a network (i.e. Internet)(paragraph 0002); one or more

media distribution access points coupled to the network, wherein each distribution media access point is operable to be coupled to one or more output devices, wherein each media distribution access point operable to communicate identification information indicating an identity of the media distribution access point (radio station, music on demand website, etc.)(paragraph 0045); an information distribution computer coupled to the network, wherein the information distribution computer is operable to distribute information to each media distribution access point of the one or more media distribution access points (paragraph 0045).

**Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8-11, 20-23, 37 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert.

Claims 8, 20 further recite the media indicating a beat of the media. Official Notice is taken that it is old and well known to identify the beat of the media in order to identify to the user the rhythm and the beat of the media. For example, music and the like will identify the rhythm of the music in order to let the user know the tempo and arrangement of the music. It would have been obvious to a person of ordinary skill in

the art at the time of Applicant's invention to have included the media indicating a beat of the media in order to obtain the above mentioned advantage.

Claims 9-11, 21-23 further recite distributing the media at the start time of the media and stop distributing the media at the alternate stop of the media. Official Notice is taken that it is old and well known to correlate the start and stop time with the distribution of the media in order to synchronize the distribution of the media. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included distributing the media at the start time of the media and stop distributing the media at the alternate stop of the media in order to obtain the above mentioned advantage.

Claim 37 further recites the information being in an electronic (email) format. Official Notice is taken that it is old and well known to submit information in an electronic (email) format in order to provide convenience and a quick way to convey information. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the information being in an electronic (email) format in order to obtain the above mentioned advantage.

Claim 49 further recites that the distribution points are coupled to the network via a wired fashion. Official notice is taken that it is old and well known to connect distribution points via a wired fashion. For example certain equipments are equipped with wires, so as to connect to a power source or to other electric or electronic equipment. It would have been obvious to a person of ordinary skill in the art at the time

Art Unit: 3688

of Applicant's invention to have included the distribution points being coupled to the network via a wired fashion in order to provide reinforcement.

**Point of contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James w. Myhre can be reached on (571)272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

Raquel Alvarez  
Primary Examiner  
Art Unit 3688

R.A.

Application/Control Number: 10/804,614

Page 7

Art Unit: 3688

9/19/2008